

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT EUROPEAN UNION (FUTURE
RELATIONSHIP) ACT 2020 (REFERENCES TO THE
TRADE AND COOPERATION AGREEMENT)
REGULATIONS 2021

Monday 19 July 2021

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Friday 23 July 2021

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The Committee consisted of the following Members:

Chair: SIR EDWARD LEIGH

Beckett, Margaret (<i>Derby South</i>) (Lab)	† Mak, Alan (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Caulfield, Maria (<i>Lewes</i>) (Con)	† Mordaunt, Penny (<i>Paymaster General</i>)
Davies, David T. C. (<i>Monmouth</i>) (Con)	Ribeiro-Addy, Bell (<i>Streatham</i>) (Lab)
Fellows, Marion (<i>Motherwell and Wishaw</i>) (SNP)	Sambrook, Gary (<i>Birmingham, Northfield</i>) (Con)
Fletcher, Mark (<i>Bolsover</i>) (Con)	Smith, Nick (<i>Blaenau Gwent</i>) (Lab)
† Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab)	† Thomas, Gareth (<i>Harrow West</i>) (Lab/Co-op)
Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>)	† Tomlinson, Michael (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con)	
Johnson, Kim (<i>Liverpool, Riverside</i>) (Lab)	Dominic Stockbridge, <i>Committee Clerk</i>
Jones, Mr Marcus (<i>Vice-Chamberlain of Her Majesty's Household</i>)	† attended the Committee

Second Delegated Legislation Committee

Monday 19 July 2021

[SIR EDWARD LEIGH *in the Chair*]

Draft European Union (Future Relationship) Act 2020 (References to the Trade and Cooperation Agreement) Regulations 2021

4.30 pm

The Paymaster General (Penny Mordaunt): I beg to move,

That the Committee has considered the draft European Union (Future Relationship) Act 2020 (References to the Trade and Cooperation Agreement) Regulations 2021.

It is a pleasure to serve under your chairmanship, Sir Edward. As hon. Members will be aware, and following the negotiations that took place last year, on 31 December 2020 the process of transition to our future relationship with the European Union was completed. We have recovered our economic and political independence, upholding a key demand of the British people and fulfilling our manifesto commitments. We are now focused on seizing the opportunities of being an independent sovereign nation.

The first trade and cooperation agreement partnership council, which took place in London last month, represented the start of the TCA governance. Both the substantive partnership council agenda items, and the formal launch of the wider governance apparatus, signal a milestone in the future relationship between the UK and EU. The secondary legislation before the Committee is required to help to ensure the future functioning statute book and provide clarity for businesses and citizens alike.

Gareth Thomas (Harrow West) (Lab/Co-op): The Minister might have seen the media story over the weekend about a suggestion that the UK-Ukraine trade deal, which the Prime Minister signed, contained a series of errors apparently still binding the UK to certain EU rules. I wonder whether she could explain what those mistakes were and how they relate to the statutory instrument, or whether we will have to come back to debate another statutory instrument, given those errors.

Penny Mordaunt: I do not intend—you will be relieved to hear, Sir Edward—to talk about things outside the scope of the particular correction that we are making this afternoon. I think that all Members should welcome the trade agreements that we are signing. The Department for International Trade has done a sterling job in rolling over agreements, but also in forging new ones. I am sure we want them to be technically accurate. If there are any difficulties, I am sure that both parties—both our Department for International Trade and whomever we are signing that particular deal with—will make those corrections, but I am keen to emphasise that this extremely dry and narrow amendment is technical in nature and is not new policy, as the hon Gentleman will understand.

It is simply to ensure that the statute book works coherently and effectively, allowing the legal revision process of the trade and cooperation agreement, as signed by the EU.

The instrument was laid by Lord Frost following the affirmative procedure in exercise of the powers provided for in the European Union (Future Relationship) Act 2020. Those powers allow Ministers to make amendments that they consider appropriate in pursuit of coherence and clarity following the legal revision process envisioned by the Trade and Cooperation Agreement.

Gareth Thomas: On the Minister's point about the need for coherence and clarity, can she explain to the Committee whether the statutory instrument will in any way reduce the extra red tape that the TCA created for businesses, particularly those businesses, say in England, which want to trade with Northern Ireland?

Penny Mordaunt: I refer the hon. Gentleman to the debate that took place last week on the Northern Ireland protocol and, indeed, many other such debates that we have had, which are focused on the solutions that we are putting forward to deal with friction—unnecessary friction, as we see it. He will know that many things are going on to address those issues, particularly in relation to trade between Northern Ireland and the rest of the UK, and he will know that we expect further information about that before the summer recess. Again, I can appreciate why he might want to liven up the debate by talking about other issues, but we are making some very technical amendments that do not affect policy in any way. Largely, they are about the numbering of particular articles; he will appreciate the complexity and the flux when producing the innards of the agreement.

I draw the Committee's attention to the use of the affirmative procedure, which allows colleagues in the House and in the other place, in their respective debates, to scrutinise the instrument and the background to it, which I will now set out. The trade and cooperation agreement, along with the security of information agreement and the nuclear cooperation agreement, was provisionally applied from 23:00 hours on 31 December 2020, in time for the end of the transition period, pending ratification. The Government subsequently agreed to the European Union's request to extend the original period of provisional application to 30 April 2021, to give it more time to complete those processes. The EU completed the processes before the end of April, and the agreements therefore came into force on 1 May.

Due to the short time available between concluding negotiations and the end of the transition period, it was not possible to complete the necessary legal revision processes before the agreements were provisionally applied on 31 December. Instead, the agreements have since undergone a final process of legal revision. That legal revision process is provided for by article FINPROV.9, now article 780, of the trade and cooperation agreement. The processes identified typographical and other errors in the trade and cooperation agreement, which were corrected, and the articles were renumbered from article 1 through to 783.

I must make it clear that the substance and policy content of the agreement has not changed. Following the legal revision to the trade and cooperation agreement,

some of the corresponding numbering and references to the European Union (Future Relationship) Act 2020 must be updated, and that is what this statutory instrument seeks to achieve. The instrument is required to update references in the Act, including numbering and annexes, to ensure that it matches what is contained in the revised trade and co-operation agreement.

It is vital that businesses and citizens are clear about their legal status and obligations. This instrument provides clarity and will allow businesses and citizens to pursue the opportunities of our agreement with confidence. I am sure that hon. Members will have questions about the extent of the changes that this instrument makes. I can confirm that the main changes to the European Union (Future Relationship) Act 2020 as a result of this instrument are the renumbering of the articles and the correction of cross-references to the trade and cooperation agreement in the Act. For example, in section 15(2)(a) of the Act, “Article TBT.9” will now become “Article 96”, to reflect the legally revised version of the trade and cooperation agreement. I will spare hon. Members of further examples, but there are many.

There was engagement with the devolved Administrations prior to the laying of the instrument, and they are content. I am grateful for the opportunity to note our thanks to them for their co-operation on this and, indeed, the wider body of secondary legislation delivered in the past year, carefully ending the transition period. I hope I have provided some helpful background to the instrument and that all members of the Committee agree that it performs a simple but important role in ensuring the certainty and clarity that citizens expect from our statute book.

4.39 pm

Gareth Thomas: Let me endorse the fact that it is a privilege to serve under your chairmanship, Sir Edward, for this debate on the statutory instrument. Certainly, at first glance, the instrument does not appear particularly contentious, and unless something quite shocking crops up during our debate, we will not try to block its passage. It appears at first glance to be a correction of some 20-plus references in the 2020 Act to the trade and cooperation agreement, although it prompts a number of what I hope the Minister recognises are gentle questions and concerns.

If the Government could not even do a technical revision before the agreement came into force and ensure that the implementing legislation was final, how on earth could they expect businesses to understand the deal and adapt to a new trading relationship, especially as the Government themselves had admitted that the document was signed too late to allow the lawyers to take a proper look at it? That raises another gentle concern about the instrument and the manner of its being required. This seems to be another example of the Government not properly checking the deals that they have signed. Sadly, there is a growing number of such examples.

Let us take the freeports blunder, when the Department for International Trade accidentally ruled out some £35 billion-worth of exports from tariff-free trade for England’s eight new freeports because it included the duty drawback prohibition clauses from those roll-over deals. Then there is of course the Prime Minister’s new yacht. He obviously had had the ambition that only British shipbuilders would bid to make it, yet once again,

because Ministers at the Department for International Trade failed to exclude the construction of civilian ships from the list of those contracts that must be open to global competition when it signed the World Trade Organisation’s Government procurement agreement last October, there appear to be some concerns. Imagine, Sir Edward, if—God forbid—the French should win the contract to build the Prime Minister’s new super-yacht because of the failure of the Department for International Trade.

I raised earlier the example of the UK-Ukraine trade deal, which is one of the most sensitive post-Brexit agreements; indeed, it is the only roll-over deal signed by the Prime Minister. As I said in my intervention on the Minister, some of the errors apparently bind the UK to EU rules. Given all the Government’s talk of not wanting to be bound by EU rules, you might have thought, Sir Edward, that Ministers would have checked that part of the agreement particularly carefully.

Then there is the Minister’s own boss, who negotiated the Northern Ireland protocol, admitting that some companies in Great Britain have found it “too much trouble” to trade with Northern Ireland and that he had not fully foreseen the “chilling effect” of the punishing new red tape, which has left many smaller firms facing higher costs.

There is, too, the sense that the statutory instrument represents a bit of a missed opportunity. Ministers could have used it to build on the deal that was done so late and so badly. Perhaps the Minister will give us some clue about where negotiations with Brussels are on a veterinary agreement, for example. Is Lord Frost still determined to reject the EU offer on a veterinary agreement, because it would—apparently—prevent Britain from joining the comprehensive and progressive agreement for trans-Pacific partnership?

I ask that question in the context of the growing concern about the scale of difficulties that British exporters have faced with post-Brexit red tape and disruption at the UK-EU border, particularly around sanitary and phytosanitary controls. That has led to many businesses and their representatives arguing publicly for a veterinary agreement with the EU. Once the Minister has reflected on the debate, I wonder whether she might be willing to acknowledge privately, if not to the Committee now, that some of the other key trade deals that the Government have done are not quite as important as the trade deal that we are discussing today. According to the very best case scenario, the Australia deal will be worth just 0.025% of UK GDP over the next 15 years—and, of course, along the way it will do huge damage to farming, particularly in Scotland and in Wales.

The International Trade Secretary’s top deal, the CPTPP, looks set to yield, at best—again, this is according to independent forecasters—only very marginal economic benefits. Surely, improving the poor deal under discussion, which was so badly negotiated by Ministers, is key to our country’s future economic prospects. How will Ministers help not only musicians and those young people who want to be guides in the ski resorts of our European allies, but, crucially, those in financial service businesses, architects, interpreters, IT installers, management consultants and business traders whose jobs have been made that bit harder and are potentially on the line because Ministers would not do a visa-free trade deal with the European Union?

[Gareth Thomas]

It is a privilege to have the chance to debate the statutory instrument, but it would not have been necessary if Ministers had negotiated a better deal. Sadly, that reflects a growing pattern of mistakes, particularly by the Department for International Trade in negotiating trade deals. One hopes, for the sake of businesses and jobs in our country, that the Government's performance improves significantly after the recess. None the less, we will not oppose the instrument.

4.46 pm

Penny Mordaunt: I thank the hon. Gentleman for his support. He has done a good job of trying to liven up the proceedings, but I remind him that the statutory instrument is about changing the numbering of paragraphs in the articles and providing neat and tidy clarity both to us in this place and to our citizens and businesses.

The hon. Gentleman is right to focus on businesses. I will not go through everything I said in last week's Backbench Business debate, but we have done a tremendous amount to enable businesses to be ready for the transition and to maximise the opportunities that will come with Brexit. They have done a tremendous job and we have been right to focus on them. I repeat that the EU's obligations under articles 1 and 6 of the Northern Ireland protocol mean that it should take a pragmatic and risk-based approach to protecting its single market while also honouring the internal market of the UK. Last week, I gave copious examples not only of where that has not been the case, but of where we have been proactive in reducing unnecessary friction and proposing solutions. We have produced a dozen papers to tackle the remaining issues, which the hon. Gentleman was right to raise and which are of great concern to us. We are making progress on those issues.

The hon. Gentleman mentioned in particular the comprehensive veterinary agreement. He may not know this, but in last week's debate his party spokesman

committed Labour to supporting the Government's proposal on a comprehensive veterinary agreement. Labour knows that the EU's proposal cannot work for us. Again, we should take a pragmatic, risk-based approach. We have an advantage in the fact that we have been trading as part of the EU bloc. I welcome the pragmatic, positive step taken by Opposition Front Benchers to support British businesses. Long may that continue.

The hon. Gentleman pushed the scope of the debate by introducing the royal yacht, but I am very confident—

The Chair: Order. I have to say that the scope of the delegated legislation is extremely narrow. It is completely up to the Minister how she replies to the debate, but she should bear in mind that the royal yacht is perhaps one holiday trip too far.

Penny Mordaunt: Thank you for your guidance, Sir Edward. I shall content myself with simply saying that I am confident that our British ships will be built in UK yards.

The hon. Gentleman mentioned trade deals. The biggest divide in politics at this moment is not between left and right, but between optimists and pessimists, and we on this side of the Committee are optimists. I am confident in our potential and in our businesses' potential to maximise their exports. We wish to focus on growing those trade agreements, and I am sure the hon. Gentleman is in agreement with us on that.

I shall leave it at that, Sir Edward, and simply reiterate my thanks to Members for contributing to the debate. It has been technical, but this is important secondary legislation that demonstrates the Government's commitment to ensuring certainty and clarity in the UK statute book. I commend the regulations to the Committee.

Question put and agreed to.

4.50 pm

Committee rose.

